

Message Text

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ACTION ARA-10

INFO OCT-01 EA-07 ISO-00 L-03 SCA-01 JUSE-00 SSO-00 PRS-01

SS-15 SP-02 EUR-12 CIAE-00 INR-07 NSAE-00 INRE-00

VO-03 /062 W

----- 003884

O R 161845Z OCT 75

FM AMEMBASSY PANAMA

TO SECSTATE WASHDC IMMEDIATE 5464

INFO AMEMBASSY BONN

AMEMBASSY JAKARTA

AMEMBASSY MANILA

PANCANAL

USCINCSO

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E.O. 11652: N/A

TAGS: PFOR, EWWT, US, PN

SUBJECT: ALLEGED MURDER ABOARD "MIMI"

REF: A. STATE 245031; B. STATE 245306; C. HINSON-PEASHOCK

TELECON 10/16/75

1. EMBOFFS DISCUSSED PANAMANIAN REQUEST FOR EXTRADITION, ON BASIS REFS A AND B, WITH FONMIN CHIEF OF US RELATIONS CARLOS GARAY BY PHONE ON OCTOBER 15, AND IN PERSON OCTOBER 16. LATTER MEETING WAS ATTENDED ALSO BY FONMIN LEGAL ADVISER NARCISCO GARAY (BROTHER OF CARLOS).

2. AS EMBASSY INFORMED DEPT BY PHONE YESTERDAY (OCTOBER 15), CARLOS GARAY CONFIRMED THEN THAT PANAMA DID WISH TO REQUEST EXTRADITION OF SEAMEN ALLEGED TO HAVE COMMITTED CRIMES ABOARD PANAMANIAN FLAG SHIP AND WOULD BE TRANSMITTING REQUEST FOR PRELIMINARY DETENTION OF SAID PERSONS BY US, UNDER TERMS OF US-PANAMA EXTRADITION TREATY, THROUGH PANAMANIAN EMBASSY IN WASHINGTON. (EMBASSY UNDERSTANDS

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PER REFTELCON THAT SUCH REQUEST WAS SUBMITTED TO DEPT.

ON MORNING OCTOBER 16.)

3. DURING DISCUSSION TODAY, CARLOS GARAY POINTED OUT APPARENT SLIGHT AMBIGUITY IN GUIDANCE REF A, AND REQUESTED CLARIFICATION SINCE THIS MIGHT INDICATE VARIANCE BETWEEN US AND PANAMANIAN INTERPRETATIONS OF EXTRADITION TREATY. PER PARA 5 REF A, EMBOFFS STATED THAT FOR GOP TO FORMALY REQUEST EXTRADITION, INCLUDING PROVISIONAL ARREST, GOP MUST FORMALY CHARGE SEAMEN WITH THE CRIMES IN ACCORDANCE WITH ITS LAWS. GARAY POINTED OUT THAT AS THUS EXPRESSED, IT APPEARED THAT US EXPECTED GOP REQUEST FOR PRELIMINARY DETENTION UNDER ARTICLE IV OF EXTRADITION TREATY TO COME SUBSEQUENT TO ISSUANCE OF INDICTMENT BY PANAMANIAN COURT. (WE UNDERSTAND THAT GOP REQUEST FOR PRELIMINARY DETENTION PRESENTED IN WASHINGTON IN FACT MADE NO REFERENCE TO INDICTMENT; NONE HAS YET BEEN OBTAINED.)

4. HOWEVER, GARAY STATED, GOP READING OF ARTICLE IV INDICATED THAT REQUEST FOR PRELIMINARY DETENTION, FOR PERIOD OF TWO MONTHS SPECIFIED THEREIN, DID NOT REQUIRE THAT INDICTMENT BE ISSUED; RATHER, PANAMA CONSIDERED THAT INDICTMENT, AND SUPPORTING EVIDENCE, MUST BE PRESENTED TO USG ONLY AT TIME FORMAL REQUEST FOR EXTRADITION WAS MADE, WHICH COULD COME AT ANY POINT DURING THE TWO MONTHS PRELIMINARY DETENTION SPECIFIED IN ARTICLE IV. IT WAS ON THIS BASIS THAT PANAMA HAS PROCEEDED TO REQUEST PRELIMINARY DETENTION; IT PLANNED TO SEEK INDICTMENT AS SOON AS DOCUMENTARY EVIDENCE CURRENTLY IN US COULD BE RECEIVED IN PANAMA TO BE LAID BEFORE PANAMANIAN COURT.

5. WE INQUIRED WHETHER, UNDER PANAMANIAN LAW, GOP COULD PROCEED TO OBTAIN FORMAL INDICTMENT AT ONCE, BEFORE REQUEST FOR PRELIMINARY DETENTION WAS CONSIDERED BY COURT IN US. N. GARAY REPLIED IN NEGATIVE; IN ORDER TO OBTAIN INDICTMENT, IT WOULD BE NECESSARY TO LAY BEFORE PANAMANIAN COURT EVIDENCE SHOWING THAT A CRIME HAD BEEN COMMITTED, PROBABLE CAUSE TO BELIEVE THAT PERSONS NAMED IN INDICTMENT HAD IN FACT COMMITTED

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CRIME, AND EVIDENCE THAT CRIME HAD BEEN COMMITTED WITHIN JURISDICTION OF PANAMANIAN COURT. LAST POINT WAS ONLY ONE WHICH COULD AT THIS MOMENT BE PROVEN IN PART IN PANAMA, I.E., RECORDS AT FONMIN COULD SHOW THAT SHIP WAS OF PANAMANIAN REGISTRY, BUT GOP WOULD STILL NEED TO SHOW THAT CRIME HAD BEEN COMMITTED ON SHIP. COURT COULD NOT TAKE NOTICE OF NEWS REPORTS, NOR EVEN OF TELEGRAPHIC STATEMENT THAT REQUISITE DOCU-

MENTARY EVIDENCE WAS IN HANDS OF GOP EMBASSY; COURT
WOULD REQUIRE CERTIFIED COPIES OF ACTUAL DOCUMENTS,
NAMES OF ANY POTENTIAL WITNESSES, AND ANY AND ALL OTHER
AVAILABLE DETAILS BEFORE IT COULD ISSUE INDICTMENT. IN
EVENT USG TOOK POSITION THAT REQUEST FOR PRELIMINARY
DETENTION MUST BE PRECEDED BY INDICTMENT UNDER PANA-
MANIAN LAW (AS PARA 5 REF A APPEARS TO IMPLY) AND/OR
IF USG FELT THAT US COURT WOULD REQUIRE SHOWING THAT
SUCH INDICTMENT HAD BEEN ISSUED BEFORE AGREEING TO
HOLD SEAMEN IN PRELIMINARY DETENTION, ONLY
AVAILABLE ALTERNATIVE APPEARED TO BE MEASURES TO GET
SUCH DOCUMENTARY EVIDENCE AS EXISTS, IN CERTIFIED
COPIES, FROM US TO PANAMA ASAP TO PERMIT GOP TO GO TO
COURT AND OBTAIN INDICTMENT.

6. GARAY REQUESTED OUR ADVICE, ON URGENT BASIS,
AS TO WHETHER USG WAS TELLING GOP THAT US HAD TO
HAVE AN INDICTMENT IN PANAMA IN ORDER TO HOLD SEAMEN
IN PRELIMINARY DETENTION, OR IF REQUEST SUBMITTED
BY PANAMANIAN EMBASSY TODAY WILL SUFFICE TO DETAIN
THEM UNITL CERTIFIED COPIES OF DOCUMENTS NOW IN US
CAN REACH PANAMA AND INDICTMENT TO ACCOMPANY FORMAL
REQUEST FOR EXTRADITION CAN BE OBTAINED.

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7. COMMENT: IT APPEARS TO US THAT THIS IS SET OF CIRCUMSTANCES NOT ENVISAGED BY EXTRADITION TREATY, I.E., WHERE NOT ONLY PERSONS ALLEGED TO HAVE COMMITTED CRIME, BUT ALL EXTANT EVIDENCE RELATING TO ALLEGED CRIMINAL ACT OR ACTS, IS IN US RATHER THAN IN PANAMA. UNDER THESE CIRCUMSTANCES, IT WOULD APPEAR TO US THAT PANAMANIAN POSITION THAT ITS INITIAL REQUEST FOR PRELIMINARY DETENTION (WHICH WOULD ALLOW TIME FOR DOCUMENTS REACH PANAMA) SUFFICES UNDER TERMS OF EXTRADITION TREATY, IS A REASONABLE ONE. END COMMENT.

8. ACTION REQUESTED: A. DEPT. GUIDANCE AS TO RESPONSE TO GARAY'S QUERY IN PARA 6 ABOVE. B. IN EVENT DEPT. RESPONSE IS THAT INDICTMENT IN PANAMA WILL HAVE TO BE OBTAINED TO SUPPORT REQUEST FOR PRELIMINARY DETENTION, REQUEST THAT DEPT. TAKE URGENT STEPS TO EXPEDITE TRANSMITTAL OF DOCUMENTARY EVIDENCE NOW IN HANDS OF USG TO PANAMA. IN THIS CONNECTION, COULD INS TRANSMIT REQUIRED CERTIFIED COPIES TO PANAMANIAN CONSUL IN MIAMI TO SEE IF THEY CAN BE GOTTEN IMMEDIATELY ON A LIMITED OFFICIAL USE

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PLANE DIRECT TO PANAMA FROM THERE?
JORDEN

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Message Attributes

Automatic Decaptoning: X
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Draft Date: 16 OCT 1975
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Disposition Authority: GolinoFR
Disposition Case Number: n/a
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Disposition Date: 28 MAY 2004
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Document Unique ID: 00
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Margaret P. Grafeld
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